

REMARKS

Upon entry of this amendment, claims 1–9, 11–17, 52–66, and 85–88 are pending in the application. Claims 1–9 and 11–17 are withdrawn from consideration as being directed to non-elected subject matter. Claims 85–88 are new. Claims 87 and 88 depend from withdrawn claims 12 and 17, respectively, and are therefore identified herein as withdrawn. Claims 10, 18–51, and 67–84 are canceled. Claims 1, 12, 14, 59, and 60 are amended.

Claim 1 has been amended to depend from claim 52. Support for the amendments to claims 1, 12, 14, 59, and 60 and for new claims 85–88 can be found throughout Applicants' specification, for example at paragraphs [0007], [0011], [0014], [0035], [0043], [0044], [0046], [0096],¹ and original claims 12, 17, and 52. No new matter has been introduced with the present amendments. Applicants have amended the claims to expedite prosecution and reserve the right to pursue the original claims and any canceled claims in one or more continuing applications.

Applicants thank Examiners Weber and Srivastava for the telephonic interview conducted on November 28, 2011. During the interview, Applicants' proposed amendment to claim 52 was discussed, as were the Tang et al., Boland et al., and Mizumoto et al. references. The Examiners indicated that Applicants' proposed amendment would not overcome the rejections.

I. Declaration under 37 C.F.R. § 1.131

In rejecting the claims of the present Application under 35 U.S.C. §§ 102 and 103, the Office has relied on Tang et al., *Molding of Three-Dimensional Microstructures of Gels*, *J. American Chemical Society*, 125:12988–89. The face of the Tang et al. reference indicates that it was published on the internet on October 4, 2003. Thus, the effective date of Tang et al. is October 4, 2003.²

Applicants' provisional application was filed on February 24, 2004, less than a year after the effective date of Tang et al., and independent claim 52 is fully supported by Applicants' provisional application (see, e.g., Figures 2 and 4, and paragraphs

¹ All citations to paragraph numbers of Applicants' specification herein refer to the paragraphs as numbered in the specification as published as U.S. Patent Application Publication No. 2008/0070304.

² See M.P.E.P. §§ 715(III)(C) & 2128.

[0007]–[0009], [0019]–[0021], [0025], and [0035]–[0041] of the provisional application). Applicants therefore submit that at least with respect to independent claim 52, Tang et al. is only available as prior art under 35 U.S.C. § 102(a), rather than 35 U.S.C. § 102(b) as indicated in the Office Action at page 5, paragraph 7. Applicants are therefore entitled to overcome the rejections based on Tang et al. by filing a declaration under 37 C.F.R. § 1.131 showing invention of the claimed subject matter prior to the October 4, 2003 effective date of Tang et al.³

Submitted herewith is a Declaration under 37 C.F.R. § 1.131 signed by all four co-inventors of the present application, Gabor Forgacs, Karoly Jakab, Adrian Neagu, and Vladimir Mironov. Applicants respectfully submit that this Declaration establishes that the inventors invented the subject matter of claim 52 prior to October 4, 2003, the effective date of the Tang et al. reference.

In view of the foregoing, Applicants respectfully submit that the rejections which rely on Tang et al. are overcome by the Declaration under 37 C.F.R. § 1.131 submitted herewith.

II. Rejection of Claims 52–53, 56, 58, and 61–63 as Having Been Anticipated under 35 U.S.C. § 102(b) by Tang et al.

Claims 52–53, 56, 58, and 61–63 have been rejected as having been anticipated under 35 U.S.C. § 102(b) by Tang et al.

For the reasons explained above, Tang et al. does not qualify as prior art against claim 52 under 35 U.S.C. § 102(b), and the Declaration under 37 C.F.R. § 1.131 submitted herewith establishes invention of the subject matter of claim 52 by Applicants prior to the effective date of Tang et al., i.e., prior to October 4, 2003. Applicants respectfully submit that the rejection of claim 52 as having been anticipated by Tang et al. is therefore overcome by Applicants' § 1.131 Declaration. Applicants further submit that since each of claims 53, 56, 58, and 61–63 depends from claim 52 and therefore includes all of the limitations of claim 52, the rejection of claims 53, 56, 58, and 61–63 is likewise overcome by Applicants' § 1.131 Declaration.

³ See M.P.E.P. § 715.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 52–53, 56, 58, and 61–63 as having been anticipated under 35 U.S.C. § 102(b) by Tang et al.

III. Rejections under 35 U.S.C. § 103(a)

A. *Rejection of Claims 52–53 and 56–66 as Having Been Obvious under 35 U.S.C. § 103(a) from Tang et al. in view of Boland et al.*

Claims 52–53 and 56–66 have been rejected as having been obvious under 35 U.S.C. § 103(a) from Tang et al. in view of Boland et al.

For the reasons explained above, the Declaration under 37 C.F.R. § 1.131 submitted herewith establishes invention of the subject matter of claim 52 by Applicants prior to the effective date of Tang et al., i.e., prior to October 4, 2003. Applicants respectfully submit that the rejection of claim 52 as having been obvious from Tang et al. in view of Boland et al. is therefore overcome by Applicants' § 1.131 Declaration. Applicants further submit that since each of claims 53 and 56–66 depends, directly or indirectly, from claim 52 and therefore includes all of the limitations of claim 52, the rejection of claims 53 and 56–66 is likewise overcome by Applicants' § 1.131 Declaration.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 52–53 and 56–66 as having been obvious under 35 U.S.C. § 103(a) from Tang et al. in view of Boland et al.

B. *Rejection of Claims 54–55 as Having Been Obvious under 35 U.S.C. § 103(a) from Tang et al in view of Boland et al., and further in view of Mizumoto et al.*

Claims 54–55 have been rejected as having been obvious under 35 U.S.C. § 103(a) from Tang et al. in view of Boland et al., and further in view of Mizumoto et al.

For the reasons explained above, the Declaration under 37 C.F.R. § 1.131 submitted herewith establishes invention of the subject matter of claim 52 by Applicants prior to the effective date of Tang et al., i.e., prior to October 4, 2003, and Applicants therefore submit that the rejections of claim 52 as having been anticipated by Tang et al. and as having been obvious from Tang et al. in view of Boland et al. are overcome. Applicants further submit that since each of claims 54 and 55 depends, directly or

indirectly, from claim 52 and therefore includes all of the limitations of claim 52, the rejection of claims 54 and 55 as having been obvious from the combination of Tang et al., Boland et al., and Mizumoto et al. is likewise overcome by Applicants' § 1.131 Declaration.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 54 and 55 as having been obvious under 35 U.S.C. § 103(a) from Tang et al. in view of Boland et al., and further in view of Mizumoto et al.

IV. Rejoinder of Claims

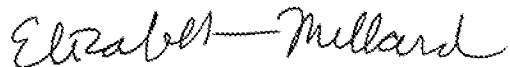
Pursuant to MPEP § 821.04, Applicants request rejoinder of withdrawn claims 1–9, 11–19, 87, and 88, each of which depends, directly or indirectly, from claim 52 (claim 1 has been amended herein to depend from claim 52, and each of claims 2–9, 11–17, 87, and 88 depends, directly or indirectly, from claim 1) and therefore require all of the limitations of claim 52.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejections of claims 52–66. Applicants also respectfully request favorable consideration and allowance of new claims 85 and 86, each of which indirectly depends from independent claim 52. Applicants further respectfully request rejoinder and allowance of withdrawn claims 1–9,11–19, 87, and 88, each of which depends, directly or indirectly, from claim 52.

The Commissioner is hereby authorized to charge any underpayment or credit any overpayment in connection with this Amendment to Deposit Account No. 19-1345.

Respectfully submitted,



Elizabeth E. Millard, Ph.D., Reg. No. 57,492
SENNIGER POWERS LLP
100 North Broadway, 17th Floor
St. Louis, Missouri 63102
(314) 231-5400

EEM/clp